

# **EXHIBIT E9**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

JOANNE ANDERSON and  
GARY ANDERSON,

Plaintiffs,

vs.

BORG-WARNER CORPORATION by  
its successor-in-interest  
BORG-WARNER MORSE TEC,  
INC., et al.,

Defendants.

Case No.

JCCP 5674/BC666513

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CAROLYN WEIRICK and ELVIRA  
GRACIELA ESCUDERO LORA,

Plaintiffs,

vs.

BRENTAG NORTH AMERICA,  
INC., etc., et al.,

Defendants.

Case No.

JCCP 4674/BC656425

VOLUME II

CONTINUATION OF THE DEPOSITION OF

WILLIAM E. LONGO, PhD

April 17, 2018  
12:00 p.m.

3945 Lakefield Court  
Suwanee, Georgia

Debra R. Luther, RMR, CRR, CCR-B-881  
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12	(Not provided)	202
13	Photomicrographs	270
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(Original Exhibits 13 and 14 have been  
attached to the original transcript. Exhibit 12  
was not provided to reporter at time of  
production.)

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14:35:51 **1 these protocols were developed and based on**  
14:35:52 **2 health-based issues.**  
14:35:53 **3 Q.** And so do you think the manner in which --  
14:35:56 **4** whether amphiboles grow in the asbestiform habit or  
14:35:59 **5** nonasbestiform habit is irrelevant, in your opinion?  
14:36:04 **6 A.** I'm not saying it's irrelevant or not.  
14:36:07 **7 Again, we get to this definition on geological**  
14:36:12 **8 commercial definition. It's not appropriate when**  
14:36:15 **9 doing analysis in using these health-based**  
14:36:20 **10 definitions for what is a fiber, what is a bundle, of**  
14:36:25 **11 asbestos. So we classify these structures according**  
14:36:29 **12 to the protocols that are written for this by EPA, by**  
14:36:34 **13 the definition of fibers and bundles by ISO, by ASTM.**  
14:36:40 **14 You know, we've gone over this in the past.**  
14:36:45 **15 Q.** Okay. And you consistently refer to the  
14:36:48 **16** fact that you're relying on the health-based  
14:36:52 **17** definitions?  
14:36:52 **18 A.** Well, yes, I'm relying on the definitions  
14:36:56 **19** in the standard protocols that we use to identify  
14:36:59 **20** asbestos fibers. My understanding is these are  
14:37:04 **21** health-based definitions. I don't testify about the  
14:37:08 **22** health effects of asbestos, but certainly our  
14:37:12 **23** laboratory follows the standard TEM protocols, the  
14:37:17 **24** standard for the definition of what we -- that  
14:37:23 **25** defines what we call asbestos fibers and bundles.  
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14:37:31 **1 Q.** Was Alice Blount using commercial  
14:37:35 **2** definitions of asbestos or health-based definitions  
14:37:39 **3** of asbestos when she wrote her 1991 paper?  
14:37:42 **4 A.** She called it asbestos by PLM. She stated  
14:37:46 **5** that she's still a geologist -- you know, bickering  
14:37:53 **6** or arguing back and forth on what these definitions  
14:37:54 **7** are, but she called what she found asbestos.  
14:37:58 **8 Q.** So is that a health-based -- again, my  
14:38:01 **9** question was whether she used a health-based  
14:38:04 **10** definition or a commercial-based definition.  
14:38:06 **11 A.** Well, it's a PLM analysis. I don't know  
14:38:08 **12** if she used health-based or not. She didn't do TEM,  
14:38:12 **13** she didn't do SEM, so she wasn't following these  
14:38:15 **14** other protocols.  
14:38:16 **15 What she called what she found was**  
14:38:17 **16** asbestos. She showed that she had a population, she  
14:38:20 **17** compared that tremolite population in her 1989 or  
14:38:25 **18** 1990 bottle, compared it to what she called tremolite  
14:38:29 **19** asbestos, and compared what her population was on the  
14:38:33 **20** chart to what tremolite asbestos was, what she found  
14:38:37 **21** in the sample, and then compared that to what she  
14:38:39 **22** said was nonasbestiform.  
14:38:42 **23 When we do a population of what we found,**  
14:38:47 **24** it falls in that range. If we were just to look at  
14:38:50 **25** these four structures and look at the average aspect  
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14:38:53 **1 ratio, it would fall in the range that she said was**  
14:38:55 **2** asbestos when she analyzed it by PLM.  
14:38:57 **3 You would have to ask Alice Blount if she**  
14:39:00 **4** was doing a health-based versus just the geological  
14:39:06 **5** definition. She used a PLM definition, I guess.  
14:39:09 **6 Q.** What is the basis of your opinion that  
14:39:12 **7** there is a difference between geological asbestos and  
14:39:16 **8** asbestos when it's being referred to in the context  
14:39:18 **9** of health?  
14:39:21 **10 A.** The basis of my opinion is that the  
14:39:25 **11** asbestiform definition was primarily a  
14:39:32 **12** geological/commercial for the reasons I've already  
14:39:35 **13** stated a number of times. The 600/R-93 method uses  
14:39:40 **14** the commercial asbestos -- asbestiform definition  
14:39:45 **15** that's, you know, 1 to 20, 1 to 100. It was not  
14:39:51 **16** really designed for these accessory minerals, in my  
14:39:54 **17** opinion.  
14:39:54 **18 When you go to other microscopy**  
14:39:57 **19** techniques, even the EPA says you -- and it's EPA's  
14:40:01 **20** definition that are used, and their methods say you  
14:40:04 **21** cannot use the PLM R-93 geological definition for  
14:40:09 **22** other microscopy methods that are health-based. They  
14:40:13 **23** wrote that in a response to the sand and gravel  
14:40:19 **24** institution by R. J. Lee where they specifically  
14:40:21 **25** talked about the fact that their NIOSH 7400 and their  
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14:40:27 **1 NIOSH 7402 was health-based and it wasn't appropriate**  
14:40:31 **2** to use the geological definition.  
14:40:33 **3 So I'm consistent with the EPA and**  
14:40:36 **4** consistent for all the labs out there that routinely  
14:40:39 **5** analyze samples by TEM using these definitions of  
14:40:42 **6** what a fiber and a bundle is to be called asbestos.  
14:40:51 **7 Q.** If you turn to the next page, Why is this  
14:41:01 **8** distinction important?  
14:41:14 **9** Are you there?  
14:41:15 **10 A.** I'm there.  
14:41:16 **11 Q.** Okay. First sentence of the first  
14:41:18 **12** paragraph says, The nonasbestiform minerals are  
14:41:25 **13** common hard rock-forming minerals found throughout  
14:41:26 **14** the earth's crust.  
14:41:26 **15** Do you agree that nonasbestiform minerals  
14:41:26 **16** are common?  
14:41:26 **17** MR. PANATIER: Asked and answered.  
14:41:27 **18** THE WITNESS: I've already stated that  
14:41:30 **19** nonasbestos regulated asbestos amphiboles are  
14:41:33 **20** found throughout the earth's crust and it's very  
14:41:38 **21** common.  
14:41:38 **22 Q.** (By Mr. Krasinski) Okay. And do you  
14:41:39 **23** agree that -- the next sentence says, Unlike  
14:41:44 **24** asbestos, they are not rare.  
14:41:46 **25** Do you agree that asbestos is rare?  
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14:41:49 **1** MR. PANATIER: Asked and answered.

14:41:50 **2** THE WITNESS: I don't know what rare

14:41:53 **3** means. As compared to the rest of the earth's

14:41:56 **4** crust for the chrysotile, the amphibole -- the

14:42:02 **5** grunerite, the tremolite, actinolite,

14:42:08 **6** anthophyllite mines, you know, I don't know. I

14:42:12 **7** don't know how rare that is to the rest of the

14:42:15 **8** earth's crust. I don't know what their

14:42:16 **9** definition of rare is.

14:42:18 **10** Q. (By Mr. Krasinski) Do you have any idea

14:42:20 **11** about what percent of amphiboles are actually

14:42:23 **12** asbestiform?

14:42:24 **13** A. Again, I'm not a geologist, so you can ask

14:42:28 **14** a geologist what their definition of what the

14:42:34 **15** percentage is. I don't have an opinion on that.

14:42:35 **16** Q. Is that at all important to your opinion?

14:42:37 **17** A. It's not -- no, it's not important to my

14:42:41 **18** opinion on what we're finding in these samples that

14:42:45 **19** are determined to meet the asbestos definition for

14:42:50 **20** the analytical methods we're using.

14:42:53 **21** I'm not here to talk about what's in the

14:42:55 **22** earth's crust. I'm here to discuss what findings of

14:42:59 **23** what we -- for the -- you know, I guess we're up to

14:43:02 **24** 20 containers that have some concentration of

14:43:06 **25** amphibole asbestos in it. That's my area. I can let  
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14:43:09 **1** a geologist talk about how rare one is versus the

14:43:13 **2** other.

14:43:17 **3** Q. Okay. If you can turn back to 6, those

14:43:23 **4** drawings there, do you see the sentence -- and it's

14:43:31 **5** the one that contains the bold and underlined part of

14:43:35 **6** the end that says, Under the light microscope, this

14:43:39 **7** polyfilamentous characteristic of fibers is evident

14:43:43 **8** and is the single most important morphological

14:43:49 **9** characteristic of the asbestiform habit.

14:43:50 **10** A. I see that.

14:43:51 **11** Q. Do you agree with that?

14:43:52 **12** A. Under the polarized light microscope for

14:44:01 **13** the methods that's out there, that's all you're going

14:44:04 **14** to see is polymorphic -- polyfilamentous

14:44:10 **15** characteristics. You're going to see bundles of

14:44:12 **16** fibers. Typically you don't resolve single fibers.

14:44:16 **17** That's what TEM does. If you're looking at a

14:44:24 **18** commercial mine and you're doing a geological

14:44:28 **19** definition or a commercial, I assume that's very

14:44:30 **20** important.

14:44:30 **21** Q. Okay. Is it important in analyzing

14:44:33 **22** materials such as talcum powder to try to determine

14:44:37 **23** if what you're finding is asbestos or not, is that an

14:44:41 **24** important morphological characteristic?

14:44:44 **25** A. If you're looking at milled, processed  
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14:44:48 **1** talcum powder, typically you won't see any of the

14:44:51 **2** asbestos by PLM. It's important by TEM, and what we

14:44:55 **3** found was asbestos.

14:44:56 **4** Q. Why won't you see it by PLM?

14:45:00 **5** A. The concentration is too low and you're

14:45:03 **6** dealing with small fibrous structures and it's going

14:45:08 **7** to be beyond the resolution of the PLM, especially

14:45:13 **8** doing cross-polarization and trying to determine if

14:45:17 **9** you have asbestos or not. Most of what we find is

14:45:22 **10** going to be nondetectable by PLM, as demonstrated by

14:45:28 **11** the JP3 group when they analyzed the same samples

14:45:33 **12** that we did by TEM and the only time they found,

14:45:37 **13** quote, asbestiform or PLM analysis by R-93 was the

14:45:42 **14** two spike samples of .1 and .3 percent tremolite in

14:45:51 **15** them. So just regular PLM for every sample that we

14:45:57 **16** found positive that they analyzed, even a sample up

14:46:02 **17** to 15 million asbestos fibers and bundles per gram

14:46:07 **18** would have been nondetectable by PLM.

14:46:14 **19** Q. So, Dr. Longo, what I guess I'm not

14:46:18 **20** understanding is that you used the Blount method,

14:46:20 **21** right, and the whole point of using the Blount method

14:46:23 **22** was to concentrate any potential amphiboles or

14:46:26 **23** asbestos -- I guess really tremolite particles;

14:46:30 **24** right?

14:46:30 **25** A. Tremolite, iron-rich anthophyllite, but we  
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14:46:32 **1** have analyzed samples where we found noniron-rich

14:46:36 **2** anthophyllite.

14:46:36 **3** Q. Okay.

14:46:36 **4** A. So it was the concentrate of amphiboles

14:46:40 **5** that we would have a more sensitive detection limit

14:46:43 **6** by TEM.

14:46:44 **7** Q. Right. And also, to clear out -- you read

14:46:49 **8** Dr. Blount's testimony -- I heard you mention it a

14:46:52 **9** few times -- right?

14:46:53 **10** A. Yes.

14:46:53 **11** Q. So one of the reasons she said also that

14:46:56 **12** she did it was so that none of these particles would

14:47:01 **13** hide behind the talc?

14:47:02 **14** A. Correct.

14:47:03 **15** Q. So part of it is not because of resolution

14:47:05 **16** but to separate out -- I mean, it's a density

14:47:09 **17** separation technique to separate in this case the

14:47:12 **18** amphiboles that you want to be looking for from the

14:47:14 **19** talc that is just interfering?

14:47:18 **20** A. Correct. What I said was that for the

14:47:21 **21** detection limit we did that, and I testified in the

14:47:24 **22** past that you don't have to look at hundreds and

14:47:27 **23** hundreds and hundreds of grid openings to get a

14:47:30 **24** reasonable detection limit.

14:47:32 **25** For the resolution and the ability to see  
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14:47:35 **1 small bundles, single fibers, like we found in this**  
14:47:38 **2 particular sample, the historic would be completely**  
14:47:43 **3 invisible by PLM.**  
14:47:45 **4 Q. Well --**  
14:47:45 **5 A. Now, using the Blount method, as I've**  
14:47:48 **6 testified to in the past, the Blount method biases to**  
14:47:53 **7 materials we found here, but it may be better for**  
14:47:57 **8 some of the larger asbestos structures. I may do a**  
14:47:59 **9 couple test samples with the Blount method on ours**  
14:48:02 **10 and see -- and run the Blount method exactly to see**  
14:48:06 **11 what can be detected.**  
14:48:07 **12 I think that would be a good study after**  
14:48:10 **13 reading her deposition, since she seemed to be able**  
14:48:12 **14 to find asbestos in numbers of samples that she**  
14:48:15 **15 didn't report, but she said she did it. So after**  
14:48:18 **16 reading her testimony, I think I'd like to do a**  
14:48:21 **17 side-by-side on some of these samples just to see if**  
14:48:25 **18 it's visible by her method because you're looking at**  
14:48:29 **19 such a bigger area than the TEM.**  
14:48:36 **20 Q. Well, I guess the question is why did it**  
14:48:39 **21 take reading her testimony for you to reach that**  
14:48:42 **22 conclusion when that was the result of her -- what**  
14:48:45 **23 she reported in the paper from '91 you've been**  
14:48:49 **24 relying on this entire time?**  
14:48:50 **25 A. Well, the '91 was one sample. She's now**  
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14:48:54 **1 done a number of samples, and I think she testified**  
14:48:56 **2 that the samples she's analyzed, she's found asbestos**  
14:49:00 **3 in over-the-counter products in the '70s, the '80s,**  
14:49:04 **4 the '90s.**  
14:49:05 **5 You know, I'm a scientist. If I think**  
14:49:07 **6 there may be a companion method that may fill in some**  
14:49:10 **7 of the blanks here, I'm willing to try it, especially**  
14:49:13 **8 since I've read her testimony.**  
14:49:15 **9 Q. Well, why would -- when you're using her**  
14:49:17 **10 density separation method, I guess I don't understand**  
14:49:21 **11 why you're considering it a companion method instead**  
14:49:24 **12 of her method. Using PLM, that is.**  
14:49:27 **13 A. Because PLM does not resolve the majority**  
14:49:30 **14 of the small single fibers and bundles. You have to**  
14:49:34 **15 have a fairly sophisticated amount of the larger**  
14:49:38 **16 structures because of resolution issues. TEM in my**  
14:49:41 **17 opinion is still the best method, and this may be a**  
14:49:44 **18 good screening method.**  
14:49:45 **19 But as a scientist, because of her**  
14:49:47 **20 testimony where she was routinely finding it in a**  
14:49:52 **21 number samples for the '70s, '80s, and '90s, I**  
14:49:55 **22 believe she testified to, I believe it's worth**  
14:49:57 **23 looking at.**  
14:49:58 **24 Q. Dr. Longo, did you see in her testimony**  
14:50:01 **25 where Dr. Blount said that if somebody was analyzing**  
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14:50:05 **1 talc for asbestos, it would be best to start with an**  
14:50:08 **2 optical microscopy method like PLM?**  
14:50:10 **3 A. I saw that.**  
14:50:11 **4 Q. And would you agree or disagree with that?**  
14:50:16 **5 A. Well, my testimony has been pretty**  
14:50:18 **6 consistent over the last year or so -- not quite a**  
14:50:21 **7 year -- but getting there --**  
14:50:23 **8 Q. And I'm just trying to see if -- your**  
14:50:25 **9 testimony before was you don't need to do PLM, and**  
14:50:28 **10 now you're saying you might do it based on reading**  
14:50:32 **11 her testimony.**  
14:50:32 **12 So having relied on her methodology that**  
14:50:34 **13 she laid out in her 1991 paper and now having read**  
14:50:38 **14 her testimony, I'm wondering if that's changed your**  
14:50:41 **15 opinion that -- whether you now believe PLM --**  
14:50:44 **16 A. No, it has not changed my opinion for**  
14:50:46 **17 these types of samples. The best -- the gold**  
14:50:49 **18 standard is TEM because it provides you the ability**  
14:50:52 **19 to see all sizes of asbestos fibers as defined by the**  
14:50:58 **20 protocols. It's still the best method.**  
14:51:02 **21 But I feel that based on her testimony**  
14:51:05 **22 that I'm going to go back to one of our highest**  
14:51:09 **23 concentrations and see if anything can be detected by**  
14:51:13 **24 her concentration method versus PLM that has been**  
14:51:17 **25 done on that sample and it came up negative. And 15**  
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14:51:24 **1 million tremolite fibers and bundles per gram is not**  
14:51:27 **2 negative.**  
14:51:30 **3 Q. Okay. Did you also see where Dr. Blount**  
14:51:35 **4 testified that TEM is not good at identifying**  
14:51:37 **5 asbestos a lot of times, that it's just good for**  
14:51:40 **6 looking for structures?**  
14:51:41 **7 A. And I respect Dr. Blount, but I have to**  
14:51:46 **8 strongly disagree. TEM is the best method for**  
14:51:51 **9 identification of the minerals, especially when**  
14:51:53 **10 you're dealing with structures that are out of the**  
14:51:55 **11 resolution ability of PLM. So I disagree with that**  
14:52:03 **12 point of hers.**  
14:52:03 **13 Q. Okay. Then I think, obviously, you**  
14:52:05 **14 disagree with her testimony that PLM is better than**  
14:52:08 **15 TEM at identifying whether structures are really**  
14:52:11 **16 asbestos. Is it fair to say you disagree with her on**  
14:52:15 **17 that point as well?**  
14:52:16 **18 A. Again, as I understand it, she's a**  
14:52:19 **19 geologist. For a geologist who's looking at**  
14:52:22 **20 geological -- for their definitions it's up to who's**  
14:52:25 **21 doing it. She feels PLM is better.**  
14:52:29 **22 For the types of protocols we're using**  
14:52:31 **23 that my understanding is they are health-based and**  
14:52:34 **24 we're looking at individual fibers and bundles, the**  
14:52:37 **25 best protocol for that is TEM.**  
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15:26:28 1 including your other workload, a couple months?

15:26:31 2 A. Let's see. We did the study in September

15:26:37 3 of 2017, and we issued the report in January of 2018.

15:26:42 4 Q. During that time you did a number of other

15:26:45 5 things?

15:26:45 6 A. Correct. You know, we have other things

15:26:46 7 we're working on, regular lab work. So it does take

15:26:52 8 a while to analyze these samples.

15:26:54 9 Q. That's what I'm getting at. How long

15:26:56 10 would you say if you started tomorrow analyzing a

15:26:59 11 similar amount of samples that you had in the

15:27:02 12 below-the-waist study, how long would it take if you

15:27:05 13 stuck to it and didn't do any other work to complete

15:27:08 14 your findings?

15:27:10 15 A. If that's the only thing we were working

15:27:12 16 on, maybe a month.

15:27:18 17 MR. BAILEY: Okay. No further questions.

15:28:43 18 MR. PANATIER: All right. Thank you.

15:28:50 19 (Deposition concluded at 3:28 p.m.)

20 (Pursuant to Rule 30(e) of the Federal

21 Rules of Civil Procedure and/or OCGA 9-11-30(e),

22 signature of the witness has been reserved.)

23 (Original transcript sent to King &

24 Spalding.)

25

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1 CERTIFICATE

2

3 STATE OF GEORGIA:

4 COUNTY OF GWINNETT:

5

6 I hereby certify that the foregoing

7 transcript was taken down, as stated in the

8 caption, and the questions and answers thereto

9 were reduced to typewriting under my direction;

10 that the foregoing pages 193 through 309

11 represent a true, complete, and correct

12 transcript of the evidence given upon said

13 hearing, and I further certify that I am not of

14 kin or counsel to the parties in the case; am

15 not in the regular employ of counsel for any of

16 said parties; nor am I in anywise interested in

17 the result of said case.

18 This, the 22nd day of April 2018.

19

DEBRA R. LUTHER, B-881  
Georgia Certified Court Reporter

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COURT REPORTER DISCLOSURE

2

3 Pursuant to Article 10.B. of the Rules and

4 Regulations of the Board of Court Reporting of the

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6 reporter shall tender a disclosure form at the time

7 of the taking of the deposition stating the

8 arrangements made for the reporting services of the

9 certified court reporter, by the certified court

10 reporter, the court reporter's employer, or the

11 referral source for the deposition, with any party to

12 the litigation, counsel to the parties or other

13 entity. Such form shall be attached to the

14 deposition transcript," I make the following

15 disclosure:

16

17 I am a Georgia Certified Court Reporter. I am

18 here as a representative of Atlanta Reporters, Inc.

19 Atlanta Reporters was contacted by King & Spalding to

20 provide court reporting services for the deposition.

21 Atlanta Reporters will not be taking this deposition

22 under any contract that is prohibited by OCGA

23 15-14-37(a) and (b).

24

25 Atlanta Reporters has no contract/agreement to

provide reporting services with any party to the

case, any counsel in the case, or any reporter or

reporting agency from whom a referral might have been

made to cover this deposition. Atlanta Reporters

will charge its usual and customary rates to all

parties in the case, and a financial discount will

not be given to any party to this litigation.

DEBRA R. LUTHER, B-881  
Georgia Certified Court Reporter

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1 DEPOSITION OF WILLIAM E. LONGO, PhD /DRL

2 I do hereby certify that I have read all

3 questions propounded to me and all answers given by

4 me on the 17th day of April 2018, taken before

5 Debra R. Luther, and that:

6 1) There are no changes noted.

7 2) The following changes are noted:

8 Pursuant to Rule 30(e) of the Federal Rules of

9 Civil Procedure and/or the Official Code of Georgia

10 Annotated 9-11-30(e), both of which read in part:

11 Any changes in form or substance which you desire to

12 make shall be entered upon the deposition...with a

13 statement of the reasons given...for making them.

14 Accordingly, to assist you in effecting corrections,

15 please use the form below:

16 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ should read: \_\_\_\_\_

17 \_\_\_\_\_

18 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ should read: \_\_\_\_\_

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20 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ should read: \_\_\_\_\_

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22 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ should read: \_\_\_\_\_

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24 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ should read: \_\_\_\_\_

25 \_\_\_\_\_

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